IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 886 of 1992

For Approval and Signature:

HON'BLE MR.JUSTICE D.H.WAGHELA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SOMABHAI KACHRABHAI SOLANKI

Versus

MANAGER

Appearance:

1. Special Civil Application No. 886 of 1992

MR JK PARMAR for Petitioner No. 1

MR HM CHINOY for Petitioner No. 1

MR SR GUPTA for Respondents

CORAM : HON'BLE MR.JUSTICE D.H.WAGHELA

Date of decision: 03/11/2004

ORAL JUDGEMENT

This petition under Articles 226 and 227 of the

Constitution is preferred to challenge the order of the Labour Court in Recovery Application No. 1841 of 1989 whereby the application of the petitioner was rejected.

2. It appears from the impugned order that the petitioner was discharged from service on 17.8.1980 and was reinstated in July 1982 in compliance of the order of this Court in Special Civil Application No. 2714 of 1981 wherein the termination of service of the petitioner was held to be void-ab-initio and he was declared to be entitled to all consequential benefits of continuous service under the respondents. The respondents appear to have paid to the petitioner wages for the intervening period as if he continued in service and his wages remained static. After the payments, according to the calculations of the respondents, having been made on 1.1.1983, on the basis that the petitioner was appointed as a regular Junior Clerk w.e.f. 1.5.1982, the petitioner appears to have approached the High Court again and then the Labour Court with the application for difference of wages. As admitted by the petitioner, out of the total amount of difference of wages claimed, i.e. 23,641/-, the respondents had already paid a sum of Rs.12,591/- and for the purpose of remaining claim for the amount of difference of Rs.11050/- neither any evidence was led nor any submissions appear to have been made before the Labour Court. In these circumstances, the Labour Court appears to have dismissed the application for want of any evidence and submissions as also in absence of the proof of any pre-existing right of the petitioner.

3. No reason or contention based on any material could be advanced by the learned counsel for the petitioner to take a different view of the matter. Since the petitioner has failed to provide any basis for the additional claim, there was no alternative before the Labour Court but to reject the claim and no exception could be taken against the course adopted by the Labour Court in the impugned judgement. Therefore, the petition, having no substance, is rejected and Rule is discharged with no order as to costs.

(D.H.Waghela,J)

Jayanti*